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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/980,126	11/30/2001	Yuichi Takegawa	381NP/50668	8206
7590 03/19/2004			EXAMINER	
Crowell & Moring Evenson Mckeown Edwards & Leneha Intellectual Property Law Group 1001 Pennsylvania Avenue N W Washington, DC 20004-2595			LY, CHEYNE D	
			ART UNIT	PAPER NUMBER
			1631	

DATE MAILED: 03/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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**Office Action Summary****Application No.**

09/980,126

**Applicant(s)**

TAKEGAWA, YUICHI

**Examiner**

Cheyne D Ly

**Art Unit**

1631

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --****Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 February 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 13-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 13-24 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

1. Restriction is required under 35 U.S.C. 121 and 372.
2. This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.
3. In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.
4. Group I, claim(s) 13-16 and 21, drawn to a method and system accepting commission production of DNA chips requiring the step of displaying a drawing for showing the nucleic acid probes and probe property data at individual nucleic acid probe positions on a screen, classified in classes 435 and 702, subclasses 287.2 and 19. If this Group is elected, then the below summarized specie election is also required.
5. Group II, claim(s) 17-20, drawn to a method and system for accepting commission production of DNA chips requiring the step of displaying temperatures of the individual areas, and temperature control conditions on a screen and constituting an experiment protocol display, classified in classes 435 and 702, subclasses 287.2 and 19. If this Group is elected, then the below summarized specie election is also required.
6. Group III, claim(s) 22-24, drawn to a system for accepting commission production of DNA chips requiring to control temperature according to melting temperature value and displaying a drawing for showing the nucleic acid probes and probe property data at individual nucleic acid probe positions and control conditions on a screen, classified in classes 435 and 702, subclasses 287.2 and 19. If this Group is elected, then the below summarized specie election is also required.

**SPECIE ELECTION REQUIREMENT FOR ALL GROUPS**

7. This application contains claims directed to the following patentably distinct species of the claimed invention:

8. Species of method or system for accepting commission production of DNA chips are cited are cited below:

- a. Unspecified type of method or system for accepting commission production of DNA chips
- b. Requiring step for providing price information.
- c. Requiring step for calculating delivery date.

9. These species are generally separately analyzed and published, and thus document the undue search burden if searched together. Thus, applicants are required to select a species listed above.

10. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 13, 16-19, 21, and 22 are generic to the above species.

11. Applicant is advised that a reply to this requirement must include an identification of a specie from list of specie sets cited above that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

12. Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

13. Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

14. The inventions of Groups I, II, and III are distinct inventions because they are directed to different chemical types or methods regarding the critical limitations therein. For Group I, the critical feature is the step of displaying a drawing for showing the nucleic acid probes and probe property data at individual nucleic acid probe positions on a screen. For Group II, the critical feature is the step of displaying temperatures of the individual areas, and temperature control conditions on a screen, and constituting an experiment protocol display. For Group III, the critical feature is the requirement to control temperature according to melting temperature value and displaying a drawing for showing the nucleic acid probes and probe property data at individual nucleic acid probe positions and control conditions on a screen. The completely distinct critical features of each Group support the undue search burden if they were examined together.

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15. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

1. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

2. Papers related to this application may be submitted to Technical Center 1600 by facsimile transmission. Papers should be faxed to Technical Center 1600 via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform with the notices published in the Official Gazette, 1096 OG 30 (November 15, 1988), 1156 OG 61 (November 16, 1993), and 1157 OG 94 (December 28, 1993) (see 37 CFR § 1.6(d)). The CM1 Fax Center number is (703) 872-9306.

3. 2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Dune Ly, whose telephone number is (571) 272-0716. The examiner can normally be reached on Monday-Friday from 8 A.M. to 4 P.M.

4. 3. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Woodward, Ph.D., can be reached on (571) 272-0722.

5. Any inquiry of a general nature or relating to the status of this application should be directed to Legal Instruments Examiner, Tina Plunkett, whose telephone number is (571) 272-0549 or to the Technical Center receptionist whose telephone number is (703) 308-0196.

C. Dune Ly  
3/15/04

*[Handwritten signature]*  
3/16/04  
[Stamp: RECEIVED, 3/16/04, 10:00 AM, 1631]